

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

SCOTT JAMES RYAN, R.N.
2550 Johnson Avenue
La Habra, CA 90631

Registered Nurse License No. 538931

Respondent.

Case No. 2008-21

OAH No. LL-2007090285

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing as its Decision in this matter.

This Decision shall become effective on December 26, 2008

It is so ORDERED November 26, 2008

LaTranene W Tate

FOR THE BOARD OF REGISTERED NURSING

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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8 Attorneys for Complainant

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

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14 La Habra, CA 90631

15 Registered Nurse License No. 538931

16 Respondent.

Case No. 2008-21

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**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the
19 public interest and the responsibility of the Board of Registered Nursing (Board), the parties
20 hereby agree to the following Stipulated Settlement and Disciplinary Order which will be
21 submitted to the Board for approval and adoption as the final disposition of the Accusation.

22 PARTIES

23 1. Ruth Ann Terry (Complainant) is the Executive Officer of the Board. She
24 brought this action solely in her official capacity and is represented in this matter by Edmund G.
25 Brown Jr., Attorney General of the State of California, by Kathleen B.Y. Lam, Deputy Attorney
26 General.

27 2. Respondent Scott James Ryan (Respondent) is representing himself in this
28 proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about December 1, 1997, the Board issued Registered Nurse License No. 538931 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2008-21 and will expire on October 31, 2009, unless renewed.

JURISDICTION

4. Accusation No. 2008-21 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 15, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2008-21 is attached as Exhibit A, and incorporated herein by reference.

ADVICE AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2008-21. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2008-21.

9. Respondent agrees that his Registered Nurse License is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the

1 Disciplinary Order below.

2 CONTINGENCY

3 10. The parties understand and agree that facsimile copies of this Stipulated
4 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
5 force and effect as the originals.

6 11. This Stipulation shall be subject to approval by the Board. Respondent
7 understands and agrees that counsel for Complainant and the staff of the Board may
8 communicate directly with the Board regarding this stipulation and settlement, without notice to
9 or participation by Respondent.

10 12. By signing this Stipulation, Respondent understands and agrees that he
11 may not withdraw or seek to rescind the stipulation prior to the time the Board considers and acts
12 upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated
13 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
14 be inadmissible in any legal action between the parties, and the Board shall not be disqualified
15 from further action by having considered this matter.

16 13. In consideration of the foregoing admissions and stipulations, the parties
17 agree that the Board may, without further notice or formal proceeding, issue and enter the
18 following Disciplinary Order:

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that Registered Nurse License No. 538931 issued to
21 Respondent Scott James Ryan, R.N. is revoked. However, the revocation is stayed and
22 Respondent is placed on probation for five (5) years on the following terms and conditions.

23 **Severability Clause.** Each condition of probation contained herein is a separate
24 and distinct condition. If any condition of this Order, or any application thereof, is declared
25 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
26 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
27 and enforceable to the fullest extent permitted by law.

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1 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
2 A full and detailed account of any and all violations of law shall be reported by Respondent to
3 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
4 compliance with this condition, Respondent shall submit completed fingerprint forms and
5 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
6 as part of the licensure application process.

7 **Criminal Court Orders:** If Respondent is under criminal court orders, including
8 probation or parole, and the order is violated, this shall be deemed a violation of these probation
9 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

10 2. **Comply with the Board's Probation Program.** Respondent shall fully
11 comply with the conditions of the Probation Program established by the Board and cooperate
12 with representatives of the Board in its monitoring and investigation of the Respondent's
13 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
14 within no more than 15 days of any address change and shall at all times maintain an active,
15 current license status with the Board, including during any period of suspension.

16 Upon successful completion of probation, Respondent's license shall be fully
17 restored.

18 3. **Report in Person.** Respondent, during the period of probation, shall
19 appear in person at interviews/meetings as directed by the Board or its designated
20 representatives.

21 4. **Residency, Practice, or Licensure Outside of State.** Periods of
22 residency or practice as a registered nurse outside of California shall not apply toward a reduction
23 of this probation time period. Respondent's probation is tolled, if and when he resides outside of
24 California. Respondent must provide written notice to the Board within 15 days of any change of
25 residency or practice outside the state, and within 30 days prior to re-establishing residency or
26 returning to practice in this state.

27 Respondent shall provide a list of all states and territories where he has ever been
28 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further

1 provide information regarding the status of each license and any changes in such license status
2 during the term of probation. Respondent shall inform the Board if he applies for or obtains a
3 new nursing license during the term of probation.

4 **5. Submit Written Reports.** Respondent, during the period of probation,
5 shall submit or cause to be submitted such written reports/declarations and verification of actions
6 under penalty of perjury, as required by the Board. These reports/declarations shall contain
7 statements relative to Respondent's compliance with all the conditions of the Board's Probation
8 Program. Respondent shall immediately execute all release of information forms as may be
9 required by the Board or its representatives.

10 Respondent shall provide a copy of this Decision to the nursing regulatory agency
11 in every state and territory in which he has a registered nurse license.

12 **6. Function as a Registered Nurse.** Respondent, during the period of
13 probation, shall engage in the practice of registered nursing in California for a minimum of 24
14 hours per week for 6 consecutive months or as determined by the Board.

15 For purposes of compliance with the section, "engage in the practice of registered
16 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
17 work in any non-direct patient care position that requires licensure as a registered nurse.

18 The Board may require that advanced practice nurses engage in advanced practice
19 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
20 Board.

21 If Respondent has not complied with this condition during the probationary term,
22 and Respondent has presented sufficient documentation of his good faith efforts to comply with
23 this condition, and if no other conditions have been violated, the Board, in its discretion, may
24 grant an extension of Respondent's probation period up to one year without further hearing in
25 order to comply with this condition. During the one year extension, all original conditions of
26 probation shall apply.

27 **7. Employment Approval and Reporting Requirements.** Respondent
28 shall obtain prior approval from the Board before commencing or continuing any employment,

1 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
2 performance evaluations and other employment related reports as a registered nurse upon request
3 of the Board.

4 Respondent shall provide a copy of this Decision to his employer and immediate
5 supervisors prior to commencement of any nursing or other health care related employment.

6 In addition to the above, Respondent shall notify the Board in writing within
7 seventy-two (72) hours after he obtains any nursing or other health care related employment.

8 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated
9 or separated, regardless of cause, from any nursing, or other health care related employment with
10 a full explanation of the circumstances surrounding the termination or separation.

11 **8. Supervision.** Respondent shall obtain prior approval from the Board
12 regarding Respondent's level of supervision and/or collaboration before commencing or
13 continuing any employment as a registered nurse, or education and training that includes patient
14 care.

15 Respondent shall practice only under the direct supervision of a registered nurse
16 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
17 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
18 are approved.

19 Respondent's level of supervision and/or collaboration may include, but is not
20 limited to the following:

21 (a) Maximum - The individual providing supervision and/or collaboration is
22 present in the patient care area or in any other work setting at all times.

23 (b) Moderate - The individual providing supervision and/or collaboration is in
24 the patient care unit or in any other work setting at least half the hours Respondent works.

25 (c) Minimum - The individual providing supervision and/or collaboration has
26 person-to-person communication with Respondent at least twice during each shift worked.

27 (d) Home Health Care - If Respondent is approved to work in the home health
28 care setting, the individual providing supervision and/or collaboration shall have person-to-

1 person communication with Respondent as required by the Board each work day. Respondent
2 shall maintain telephone or other telecommunication contact with the individual providing
3 supervision and/or collaboration as required by the Board during each work day. The individual
4 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
5 site visits to patients' homes visited by Respondent with or without Respondent present.

6 9. **Employment Limitations.** Respondent shall not work for a nurse's
7 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
8 traveling nurse, or for an in-house nursing pool.

9 Respondent shall not work for a licensed home health agency as a visiting nurse
10 unless the registered nursing supervision and other protections for home visits have been
11 approved by the Board. Respondent shall not work in any other registered nursing occupation
12 where home visits are required.

13 Respondent shall not work in any health care setting as a supervisor of registered
14 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
15 nurses and/or unlicensed assistive personnel on a case-by-case basis.

16 Respondent shall not work as a faculty member in an approved school of nursing
17 or as an instructor in a Board approved continuing education program.

18 Respondent shall work only on a regularly assigned, identified and predetermined
19 worksite(s) and shall not work in a float capacity.

20 If Respondent is working or intends to work in excess of 40 hours per week, the
21 Board may request documentation to determine whether there should be restrictions on the hours
22 of work.

23 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall
24 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
25 than six months prior to the end of his probationary term.

26 Respondent shall obtain prior approval from the Board before enrolling in the
27 course(s). Respondent shall submit to the Board the original transcripts or certificates of
28 completion for the above required course(s). The Board shall return the original documents to

Respondent after photocopying them for its records.

11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$6,262.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. **Violation of Probation.** If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

13. **License Surrender.** During Respondent's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

1 Surrender of Respondent's license shall be considered a disciplinary action and
2 shall become a part of Respondent's license history with the Board. A registered nurse whose
3 license has been surrendered may petition the Board for reinstatement no sooner than the
4 following minimum periods from the effective date of the disciplinary decision:

5 (1) Two years for reinstatement of a license that was surrendered for any
6 reason other than a mental or physical illness; or

7 (2) One year for a license surrendered for a mental or physical illness.

8 14. **Physical Examination.** Within 45 days of the effective date of this
9 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or
10 physician assistant, who is approved by the Board before the assessment is performed, submit an
11 assessment of the Respondent's physical condition and capability to perform the duties of a
12 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
13 medically determined, a recommended treatment program will be instituted and followed by the
14 Respondent with the physician, nurse practitioner, or physician assistant providing written
15 reports to the Board on forms provided by the Board.

16 If Respondent is determined to be unable to practice safely as a registered nurse,
17 the licensed physician, nurse practitioner, or physician assistant making this determination shall
18 immediately notify the Board and Respondent by telephone, and the Board shall request that the
19 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
20 shall immediately cease practice and shall not resume practice until notified by the Board.
21 During this period of suspension, Respondent shall not engage in any practice for which a license
22 issued by the Board is required until the Board has notified Respondent that a medical
23 determination permits Respondent to resume practice. This period of suspension will not apply
24 to the reduction of this probationary time period.

25 If Respondent fails to have the above assessment submitted to the Board within
26 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
27 practice until notified by the Board. This period of suspension will not apply to the reduction of
28 this probationary time period. The Board may waive or postpone this suspension only if

1 significant, documented evidence of mitigation is provided. Such evidence must establish good
2 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
3 provided. Only one such waiver or extension may be permitted.

4 15. **Participate in Treatment/Rehabilitation Program for Chemical**
5 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary
6 period or shall have successfully completed prior to commencement of probation a Board-
7 approved treatment/rehabilitation program of at least six months duration. As required, reports
8 shall be submitted by the program on forms provided by the Board. If Respondent has not
9 completed a Board-approved treatment/rehabilitation program prior to commencement of
10 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
11 a program. If a program is not successfully completed within the first nine months of probation,
12 the Board shall consider Respondent in violation of probation.

13 Based on Board recommendation, each week Respondent shall be required to
14 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
15 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
16 by the Board. If a nurse support group is not available, an additional 12-step meeting or
17 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
18 such attendance to the Board during the entire period of probation. Respondent shall continue
19 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
20 mental health examiner and/or other ongoing recovery groups.

21 16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
22 shall completely abstain from the possession, injection or consumption by any route of all
23 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
24 the same are ordered by a health care professional legally authorized to do so as part of
25 documented medical treatment. Respondent shall have sent to the Board, in writing and within
26 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
27 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
28 medication will no longer be required, and the effect on the recovery plan, if appropriate.

1 Respondent shall identify for the Board a single physician, nurse practitioner or
2 physician assistant who shall be aware of Respondent's history of substance abuse and will
3 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
4 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
5 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
6 condition. If any substances considered addictive have been prescribed, the report shall identify a
7 program for the time limited use of any such substances.

8 The Board may require the single coordinating physician, nurse practitioner, or
9 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
10 addictive medicine.

11 **17. Submit to Tests and Samples.** Respondent, at his expense, shall
12 participate in a random, biological fluid testing or a drug screening program which the Board
13 approves. The length of time and frequency will be subject to approval by the Board.
14 Respondent is responsible for keeping the Board informed of Respondent's current telephone
15 number at all times. Respondent shall also ensure that messages may be left at the telephone
16 number when he is not available and ensure that reports are submitted directly by the testing
17 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
18 to the Board by the program and Respondent shall be considered in violation of probation.

19 In addition, Respondent, at any time during the period of probation, shall fully
20 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
21 tests and samples as the Board or its representatives may require for the detection of alcohol,
22 narcotics, hypnotics, dangerous drugs, or other controlled substances.

23 If Respondent has a positive drug screen for any substance not legally authorized
24 and not reported to the coordinating physician, nurse practitioner, or physician assistant, the
25 Respondent shall immediately cease practice and shall not resume practice until notified by the
26 Board. After taking into account documented evidence of mitigation, if the Board files a petition
27 to revoke probation or an accusation, the Board may suspend Respondent from practice pending
28 the final decision on the petition to revoke probation or the accusation. This period of

1 suspension will not apply to the reduction of this probationary time period.

2 If Respondent fails to participate in a random, biological fluid testing or drug
3 screening program within the specified time frame, Respondent shall immediately cease practice
4 and shall not resume practice until notified by the Board. After taking into account documented
5 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
6 Board may suspend Respondent from practice pending the final decision on the petition to
7 revoke probation or the accusation. This period of suspension will not apply to the reduction of
8 this probationary time period.

9 **18. Mental Health Examination.** Respondent shall, within 45 days of the
10 effective date of this Decision, have a mental health examination including psychological testing
11 as appropriate to determine his capability to perform the duties of a registered nurse. The
12 examination will be performed by a psychiatrist, psychologist or other licensed mental health
13 practitioner approved by the Board. The examining mental health practitioner will submit a
14 written report of that assessment and recommendations to the Board. All costs are the
15 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
16 result of the mental health examination will be instituted and followed by Respondent.

17 If Respondent is determined to be unable to practice safely as a registered nurse,
18 the licensed mental health care practitioner making this determination shall immediately notify
19 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
20 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
21 practice and may not resume practice until notified by the Board. During this period of
22 suspension, Respondent shall not engage in any practice for which a license issued by the Board
23 is required, until the Board has notified Respondent that a mental health determination permits
24 Respondent to resume practice. This period of suspension will not apply to the reduction of this
25 probationary time period.

26 If Respondent fails to have the above assessment submitted to the Board within
27 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
28 practice until notified by the Board. This period of suspension will not apply to the reduction of

1 this probationary time period. The Board may waive or postpone this suspension only if
2 significant, documented evidence of mitigation is provided. Such evidence must establish good
3 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
4 provided. Only one such waiver or extension may be permitted.

5 19. **Therapy or Counseling Program.** Respondent, at his expense, shall
6 participate in an on-going counseling program until such time as the Board releases him from this
7 requirement and only upon the recommendation of the counselor. Written progress reports from
8 the counselor will be required at various intervals.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 2-4-08


SCOTT JAMES RYAN, R.N.
Respondent

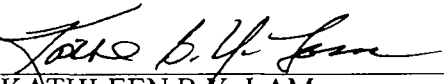
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing.

DATED: 2/13/08

EDMUND G. BROWN JR., Attorney General
of the State of California

JAMES M. LEDAKIS
Supervising Deputy Attorney General


KATHLEEN B.Y. LAM
Deputy Attorney General

Attorneys for Complainant

Exhibit A
Accusation No. 2008-21

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARGARET ANN LAFKO
Supervising Deputy Attorney General
3 KATHLEEN B.Y. LAM, State Bar No. 95379
Deputy Attorney General
4 California Department of Justice
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Facsimile: (619) 645-2061
8
9 Attorneys for Complainant

10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2008-21

14 SCOTT JAMES RYAN
2550 Johnson Avenue
15 La Habra, CA 90631

A C C U S A T I O N

16 Registered Nurse License No. 538931

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
23 ("Board"), Department of Consumer Affairs.

24 2. On or about December 1, 1997, the Board issued Registered Nurse License
25 Number 538931 (hereinafter "license") to Scott James Ryan ("Respondent"). Respondent's
26 license was immediately revoked, the revocation was stayed, and Respondent was placed on
27 probation for three years, as more particularly set forth in paragraph 14 below. Respondent
28 successfully completed probation on November 29, 2000. Respondent's license was in full force

1 and effect at all times relevant to the charges brought herein and will expire on October 31, 2007,
2 unless renewed.

3 STATUTORY PROVISIONS

4 3. Business and Professions Code ("Code") section 2750 provides, in
5 pertinent part, that the Board may discipline any licensee, including a licensee holding a
6 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
7 2750) of the Nursing Practice Act.

8 4. Code section 2764 provides, in pertinent part, that the expiration of a
9 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
10 against the licensee or to render a decision imposing discipline on the license. Under Code
11 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
12 years after the expiration.

13 5. Code section 2761, subdivision (a), states, in pertinent part, that the Board
14 may take disciplinary action against a certified or licensed nurse for unprofessional conduct.

15 6. Code section 2762 states, in pertinent part:

16 In addition to other acts constituting unprofessional conduct within
17 the meaning of this chapter [the Nursing Practice Act], it is unprofessional
conduct for a person licensed under this chapter to do any of the following:

18 (a) Obtain or possess in violation of law, or prescribe, or except
19 as directed by a licensed physician and surgeon, dentist, or podiatrist
administer to himself or herself, or furnish or administer to another, any
20 controlled substance as defined in Division 10 (commencing with Section
11000) of the Health and Safety Code or any dangerous drug or dangerous
21 device as defined in Section 4022.

22 (b) Use any controlled substance as defined in Division 10
(commencing with Section 11000) of the Health and Safety Code, or any
23 dangerous drug or dangerous device as defined in Section 4022, or alcoholic
beverages, to an extent or in a manner dangerous or injurious to himself or
24 herself, any other person, or the public or to the extent that such use impairs
his or her ability to conduct with safety to the public the practice authorized
25 by his or her license . . .

26 7. Health and Safety Code section 11173, subdivision (a), states, in pertinent
27 part, that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or

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1 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
2 deceit, misrepresentation, or subterfuge . . .”

3 COST RECOVERY

4 8. Code section 125.3 provides, in pertinent part, that the Board may request
5 the administrative law judge to direct a licentiate found to have committed a violation or
6 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
7 and enforcement of the case.

8 CONTROLLED SUBSTANCES AT ISSUE

9 9. “Dilaudid,” a brand of hydromorphone, is a Schedule II controlled
10 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K).

11 10. “Morphine” is a Schedule II controlled substance as designated by Health
12 and Safety Code section 11055, subdivision (b)(1)(M).

13 SAINT JUDE MEDICAL CENTER

14 FIRST CAUSE FOR DISCIPLINE

15 **(Diversion and Self-Administration of Controlled Substances)**

16 11. Respondent is subject to disciplinary action pursuant to Code section
17 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
18 2762, subdivision (a), in that on or about March 6, 2004, while on duty as a registered nurse at
19 Saint Jude Medical Center, Fullerton, California (hereinafter “medical center”), Respondent did
20 the following:

21 **Diversion of Controlled Substances:**

22 a. Respondent obtained the controlled substance Dilaudid by fraud, deceit,
23 misrepresentation, or subterfuge, in violation of Health and Safety Code section 11173,
24 subdivision (a), as follows: Respondent, by his own admission, withdrew Dilaudid from the
25 medical center’s Pyxis system (a computerized medication system) for self-administration.
26 Further, Respondent withdrew the medication from the Pyxis under the name of a patient who
27 had been discharged from the medical center four hours earlier.

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1 **Self-Administration of Controlled Substances:**

2 b. Respondent self-administered the controlled substance Dilaudid without
3 lawful authority therefor.

4 **WHITTIER HOSPITAL MEDICAL CENTER**

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Self-Administration of Controlled Substances)**

7 12. Respondent is subject to disciplinary action pursuant to Code section
8 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
9 2762, subdivision (a), in that on or about April 5, 2004, Respondent self-administered morphine
10 without lawful authority therefor.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Performance of Nursing Duties While Impaired)**

13 13. Respondent is subject to disciplinary action pursuant to Code section
14 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
15 2762, subdivision (b), in that on or about April 5, 2004, while on duty as a registered nurse at
16 Whittier Hospital Medical Center, Whittier, California, Respondent used the controlled substance
17 morphine to an extent or in a manner dangerous or injurious to himself and others and to the
18 extent that such use impaired his ability to conduct his nursing duties safely, as follows:
19 Respondent was observed while on duty with certain signs and symptoms of impairment
20 including, but not limited to, thick and slurred speech, a slow affect, an unsteady gait, watery
21 eyes with "pinpoint" pupils, unintelligible speech, and unusual behavior (Respondent appeared
22 confused, was observed talking to himself, and dozed off while speaking to medical center staff).
23 Respondent was taken to a drug testing laboratory and voluntarily submitted to a blood screen.
24 Respondent's blood screen tested positive for morphine.

25 **DISCIPLINE CONSIDERATIONS**

26 14. To determine the degree of discipline, if any, to be imposed on
27 Respondent, Complainant alleges as follows: On October 31, 1997, pursuant to the Stipulation
28 in Settlement and Disciplinary Order adopted by the Board as its decision in the administrative

1 proceeding titled *In the Matter of the Statement of Issues Against: Scott James Ryan*, Case No.
2 97-133, the Board granted Respondent's application for licensure as a registered nurse effective
3 November 30, 1997. The Board ordered that Respondent's license be immediately revoked, the
4 order of revocation stayed, and Respondent placed on probation for a period of three years on
5 terms and conditions. Respondent admitted that he was convicted on October 5, 1995, and July
6 2, 1996, of driving under the influence of alcohol and/or drugs, in violation of Vehicle Code
7 section 23152, subdivision (a), used alcoholic beverages to an extent or in a manner dangerous or
8 injurious to himself and others, and was convicted of offenses which are substantially related to
9 the qualifications, functions, and duties of a registered nurse.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 13 1. Revoking or suspending Registered Nurse License Number 538931, issued
14 to Scott James Ryan;
15 2. Ordering Scott James Ryan to pay the Board of Registered Nursing the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3;
18 3. Taking such other and further action as deemed necessary and proper.
19

20 DATED: 7/11/07.

21 Scott Heckberg for
22 RUTH ANN TERRY, M.P.H., R.N.
23 Executive Officer
24 Board of Registered Nursing
25 Department of Consumer Affairs
26 State of California

27 Complainant
28

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 MARC D. GREENBAUM
Deputy Attorney General
3 Department of Justice
300 South Spring Street, Suite 500
4 Los Angeles, California 90013
Telephone: (213) 897-2579
5
6 Attorneys for Complainant
7

8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Statement) Case No. 97-133
12 of Issues Against:)
13 SCOTT JAMES RYAN) STIPULATION IN SETTLEMENT
9739 La Alba Drive) AND DISCIPLINARY ORDER
14 Whittier, CA 90603)
15 Applicant/Respondent.)
16

17 IT IS HEREBY STIPULATED by and between the parties to
18 the above captioned matter that the following is true:

19 1. A Statement of Issues, case number 97-133, is
20 currently pending against Scott James Ryan (hereinafter the
21 "respondent"). The Statement of Issues was filed with the Board
22 on May 28, 1997.

23 2. Ruth Ann Terry, M.P.H., R.N., complainant herein,
24 in her official capacity as Executive Officer of the Board, and
25 not otherwise, filed the Statement of Issues setting forth causes
26 for denial of respondent's registered nurse license. A true copy
27 of the Statement of Issues is attached hereto as Exhibit "A" and

1 incorporated herein by this reference as if set forth in full.

2 3. At all times mentioned herein, respondent has been
3 represented by Attorney Phyllis M. Gallagher, Esq. Complainant
4 has been represented by the Attorney General of the State of
5 California, by and through Marc D. Greenbaum, Deputy Attorney
6 General.

7 4. For purposes of settlement, it is stipulated that
8 the Statement of Issues, Notice of Defense, appropriate
9 provisions of the Government Code, and a request for Discovery,
10 were duly and properly served upon respondent, and, in response,
11 it is deemed respondent herein has requested a hearing on the
12 charges and allegations set forth in the Statement of Issues.

13 5. Respondent has read and understands said Statement
14 of Issues and is aware of his rights to an administrative hearing
15 and his rights at the administrative hearing, including the right
16 to counsel at his expense; the right to confront and cross-
17 examine any witnesses called against him and his right to process
18 to secure oral and documentary evidence.

19 6. Respondent is further aware of his right to
20 petition the Board for reconsideration of any decision adverse to
21 him, and his right to petition the courts of the state of
22 California to review the sufficiency of any decision adopted by
23 the board.

24 7. Respondent herein knowingly and intelligently
25 waives and gives up each of the above enumerated rights and
26 (paragraphs 5 and 6), and stipulates and agrees that the board
27 may adjudicate the pending Statement of Issues solely upon the

instant stipulation. For purposes of settlement and any other proceeding before the Board only, respondent, admits to the truth of the factual allegations contained in Statement of Issues number 97-133.

STIPULATION

By reason of respondent Ryan's stipulation to the facts and issues set forth hereinabove, it is stipulated and agreed that, if this stipulation is approved by the Board, the Board of Registered Nursing shall impose the following Disciplinary Order in Case No. 97-133:

DISCIPLINARY ORDER

The application of respondent Scott James Ryan for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of three (3) years on the following terms and conditions:

1. OBEY ALL LAWS: Respondent shall obey all federal, state and local laws, and all rules and regulations of the Board of Registered Nursing governing the practice of nursing in California. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fees within 45 days of the effective date of the decision, unless previously submitted as

1 part of the licensure application process.

2 2. COMPLY WITH PROBATION PROGRAM: Respondent shall
3 fully comply with the terms and conditions of the Probation
4 Program established by the Board and cooperate with
5 representatives of the Board in its monitoring and investigation
6 of the respondent's compliance with the Program. Respondent
7 shall inform the Board in writing within no more than 15 days of
8 any address change and shall at all times maintain an active,
9 current license status with the Board, including during any
10 period of suspension.

11 3. REPORT IN PERSON: Respondent, during the period
12 of probation, shall appear in person at interviews or meetings as
13 directed by the Board or its designated representatives.

14 4. ABSENCE FROM STATE: Periods of residency or
15 practice outside of California will not apply to the reduction of
16 this probationary term. The respondent must provide written
17 notice to the Board within fifteen (15) days of any change of
18 residency or practice outside the state.

19 5. SUBMIT WRITTEN REPORTS: Respondent, during the
20 period of probation, shall submit such written reports or
21 declarations and verification of actions under penalty of perjury
22 as are required. These declarations shall contain statements
23 relative to respondent's compliance with all the terms and
24 conditions of the Board's Probation Program. Respondent shall
25 immediately execute all release of information forms as may be
26 required by the Board or its representatives.

27 //

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1 6. FUNCTION AS REGISTERED NURSE: Respondent, during
2 the period of probation, shall engage in the practice of
3 professional nursing in California for a minimum of twenty-four
4 (24) hours per week (or as determined by the Board) for six (6)
5 consecutive months. Per Section 2732 of the Business and
6 Professions Code, no person shall engage in the practice of
7 registered nursing without holding a license which is in an
8 active status.

9 7. NURSING PRACTICE: The Board shall be informed of
10 and approved of each agency for which the respondent provides
11 nursing services prior to respondent's commencement of work. The
12 respondent shall inform his employer of the reason for and terms
13 and conditions of probation and shall provide a copy of the
14 Board's decision and order to his employer and immediate
15 supervisor. The employer shall submit performance evaluations
16 and other reports as requested by the Board. Respondent is also
17 required to notify the Board in writing within seventy-two (72)
18 hours after termination of any nursing employment. Any
19 notification of termination shall contain a full explanation of
20 the circumstances surrounding it.

21 8. SUPERVISION: The Board shall be informed of and
22 approve of the level of supervision provided to the respondent
23 while he is functioning as a registered nurse. The appropriate
24 level of supervision must be approved by the Board prior to
25 commencement of work. Respondent shall practice only under the
26 direct supervision of a registered nurse in good standing (no
27 current discipline) with the Board of Registered Nursing.

1 9. EMPLOYMENT LIMITATIONS: Respondent may not work
2 for a nurse registry; home care agency; temporary nurse agency;
3 in-house nursing pool; as a nursing supervisor; as a faculty
4 member in an approved school of nursing; or as an instructor in a
5 Board approved continuing education program. Respondent must
6 work only on regularly assigned, identified and predetermined
7 worksite(s) with appropriate supervision as approved by the
8 Board.

9 10. COMPLETE A NURSING COURSE: Respondent at his
10 expense, shall begin and successfully complete a course or
11 courses in nursing as directed by the Board prior to engaging in
12 the practice of nursing and prior to the end of the probationary
13 term. The respondent may be suspended from practicing nursing
14 until the necessary coursework is completed. The content of such
15 courses and the place and conditions of instruction shall be
16 specified by Board representatives at the time of the initial
17 probation meeting based on the nature of the violation(s).
18 Specific courses must be approved prior to enrollment. The
19 respondent must submit written proof of enrollment and proof of
20 successful completion. Transcripts or certificates of completion
21 must be mailed directly to the Board by the agency or entity
22 instructing the respondent. Home study or correspondence courses
23 are not acceptable and will not be approved.

24 11. PHYSICAL EXAMINATION: Respondent, at his expense,
25 within forty-five (45) days of the effective date of this
26 decision, shall have a licensed physician submit, in a format
27 acceptable to the Board, an assessment of the respondent's

1 physical condition and capability to perform the duties of a
2 professional registered nurse. If medically determined, a
3 recommended treatment program will be instituted and followed by
4 the respondent with the physician providing written reports to
5 the Board on forms provided by the Board.

6 12. PARTICIPATE IN REHABILITATION PROGRAM FOR CHEMICAL
7 DEPENDENCE: Respondent, at his expense, shall successfully
8 complete or shall have successfully completed a treatment or
9 rehabilitation program of at least six (6) months duration which
10 the Board approves. Reports shall be submitted by the program on
11 forms provided by the Board. If respondent has not completed a
12 treatment program prior to commencement of probation, the
13 respondent, within a reasonable period of time as determined by
14 the Board (but not exceeding forty-five (45) days from the
15 effective date of the decision) shall be enrolled in a treatment
16 program. If a treatment program is not successfully completed
17 within the first nine (9) months of probation, the Board will
18 consider the respondent to be in violation of probation and will
19 initiate further disciplinary action against the respondent's
20 license.

21 In addition, respondent must attend two 12-step
22 recovery meetings per week (e.g. Narcotics Anonymous, Alcoholic
23 Anonymous, etc.) and a nurse support group as directed by the
24 Board. If a nurse support group is not available, an additional
25 12-step meeting must be added. Respondent must submit dated and
26 signed documentation confirming such attendance to the Board
27 during the entire period of probation.

1 13. ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING)
2 DRUGS: Respondent shall completely abstain from the possession,
3 injection or consumption by any route of all psychotropic (mood
4 altering) drugs, including alcohol, except when the same are
5 lawfully prescribed by a licensed physician or dentist as part of
6 documented medical treatment. Respondent shall have sent to the
7 Board, in writing and within fourteen (14) days, by the
8 prescribing physician or dentist, a report identifying the
9 medication, dosage, the date the medication was prescribed, the
10 respondent's prognosis, and the date the medication will no
11 longer be required.

12 14. SUBMIT TO TESTS AND SAMPLES: Respondent, at his
13 expense, shall participate in a random, biological fluid testing
14 or a drug screening program which the Board approves. The length
15 of time and frequency will be subject to approval by the Board.
16 The respondent is responsible for ensuring that reports are
17 submitted directly by the testing agency to the Board, as
18 directed. Any confirmed positive finding shall be reported
19 immediately to the Board by the program and the respondent will
20 be considered in violation of probation.

21 In addition, respondent, at any time during the period
22 of probation shall fully cooperate with the Board or any of its
23 representatives, and shall, when requested, submit to such tests
24 and samples as the Board or its representatives may require for
25 the detection of alcohol, narcotics, hypnotics, dangerous drugs,
26 or other controlled substances.

27 15. MENTAL HEALTH EXAMINATION: The respondent shall,

1 within forty-five (45) days of the effective date of this
2 decision, have a mental health examination including
3 psychological testing as appropriate to determine his capability
4 to perform the duties of a registered nurse. The examination
5 will be performed by a psychiatrist, psychologist or other
6 licensed mental health practitioner approved by the Board. The
7 examining mental health practitioner will submit a written report
8 of that assessment and recommendations to the Board. All costs
9 are the responsibility of the respondent. Recommendations for
10 treatment, therapy or counseling made as a result of the mental
11 health examination will be instituted and followed by the
12 respondent.

13 16. THERAPY OR COUNSELING PROGRAM: Respondent, at his
14 expense, shall participate in an on-going counseling program
15 until such time as the Board releases him from this requirement
16 and only upon the recommendation of the counselor. Written
17 progress reports from the counselor will be required at various
18 intervals.

19 17. VIOLATION OF PROBATION: If respondent violates
20 the conditions of his probation, the Board, after giving the
21 respondent notice and an opportunity to be heard, may set aside
22 the stay order and impose the stayed discipline of revocation of
23 respondent's license as a registered nurse.

24 If during the period of probation, an Accusation and/or
25 Petition to Revoke Probation has been filed against respondent's
26 license or the Attorney General's Office has been requested to
27 prepare an Accusation and/or Petition to Revoke Probation against

1 respondent's license, the probation period shall automatically be
2 extended and shall not expire until the Accusation and/or
3 Petition to Revoke Probation has been acted upon by the Board.

4 18. Upon successful completion of probation,
5 respondent's license will be fully restored.

6 SUBMISSION OF STIPULATION

7 I have read and reviewed the terms and conditions of
8 the stipulation and order set forth above. I understand that
9 this is an offer in settlement made to the Board of Registered
10 Nursing, and will not be effective unless and until the Board
11 formally adopts said stipulation as its decision in this matter.
12 I expressly acknowledge that if adopted, my license will be on
13 probation to the board and that pursuant to said probation, there
14 are specific terms enumerated above with which I must comply. I
15 voluntarily enter into the instant stipulation and agree to be
16 bound by the terms of the disciplinary order.

17
18 DATED: 7/26/, 1997

Scott James Ryan
SCOTT JAMES RYAN
Respondent

19
20 DATED: 7/28, 1997

Phyllis M. Gallagher
PHYLLIS M. GALLAGHER, ESQ.
Attorney for Respondent

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DATED: August 5, 1997

Marc D. Greenbaum

MARC D. GREENBAUM
Deputy Attorney General

ADOPTION

The foregoing is adopted as the decision of the Board of Registered Nursing in Case no. 97-133, this 31st day of October 1997, and shall become effective the 30th day of November, 1997.


BOARD OF REGISTERED NURSING

MG:hg
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1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 MARC D. GREENBAUM, State Bar No. 138213
Deputy Attorney General
3 300 South Spring Street, Suite 500
Los Angeles, California 90013
4 Telephone: (213) 897-2579

5 Attorneys for Complainant

6
7
8 BEFORE THE
9 BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA
11

12 In the Matter of the Statement of)	NO. 97-133
Issues Against:)	
)	
13 SCOTT JAMES RYAN)	STATEMENT
14 9739 La Alba Drive)	<u>OF ISSUES</u>
Whittier, California 90603)	
)	
15 Applicant/Respondent.)	
)	

16
17 Ruth Ann Terry, M.P.H., R.N., for causes for denial of
18 the application of Scott James Ryan (respondent herein) for
19 licensure as a registered nurse, alleges:
20

21 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes and
22 files this Statement of Issues in her official capacity as
23 Executive Officer, Board of Registered Nursing, Department of
24 Consumer Affairs.
25

26 2. Under Business and Professions Code section 2736,
27 the Board of Registered Nursing may deny a license as a

1 registered nurse when it finds that the applicant committed any
2 act, which, if committed by a licensed registered nurse, would be
3 grounds for disciplinary action.

4 Under Business and Professions Code section 2761, the
5 Board of Registered Nursing may deny a license if the applicant
6 has been convicted of a felony or any offense substantially
7 related to the qualifications, functions, and duties of a
8 registered nurse.

9 Under Business and Professions Code section 480, the
10 Board of Registered Nursing may deny a license when it find that
11 the applicant has been convicted of a crime.

12
13 3. APPLICATION INFORMATION

14 On or about December 30, 1996, Scott James Ryan
15 (respondent herein) submitted an application for licensure as a
16 registered nurse to the Board of Registered Nursing. The truth
17 and accuracy of the contents of the application were certified
18 under penalty of perjury by Scott James Ryan on December 22,
19 1996.

20
21 4. Respondent's application is subject to denial under
22 Business and Professions Code section 2761(a) on the grounds of
23 unprofessional conduct, as defined by section 2762(c) of that
24 code, in that he was convicted of the following offenses
25 concerning the consumption of alcoholic beverages:

26 a. On October 5, 1995, he was convicted on his plea of
27 guilty in the Los Angeles County, Whittier Judicial District

1 Municipal Court, proceeding number 95M04918, case entitled *People*
2 *v. James Scott Ryan*, for violating Vehicle Code section 23152(a)
3 (driving under the influence of alcohol/drugs).

4 The circumstances of the crime for which respondent was
5 convicted are that on or about July 15, 1995, he rear-ended
6 another vehicle and was arrested for driving a vehicle while
7 under the influence of alcohol and/or drugs.

8 b. On July 2, 1996, he was convicted on his plea of
9 guilty in the Orange County Municipal Court, North Orange County
10 Judicial District, proceeding number 96NS1646, case entitled
11 *People v. James Scott Ryan aka Scott Ryan*, for violating Vehicle
12 Code section 23152(a) (driving under the influence of
13 alcohol/drugs).

14 The circumstances of the crime for which respondent was
15 convicted are that on or about April 27, 1996, he was driving a
16 vehicle under the influence of alcohol.

17
18 5. Respondent's application is subject to denial
19 under Business and Professions Code section 2761(a) on the
20 grounds of unprofessional conduct, as defined by section 2762(b)
21 of that code, in that on or about July 15, 1995, and on or about
22 April 27, 1996, he used alcoholic beverages to an extent or in a
23 manner to be dangerous or injurious to himself and others, as
24 evidenced by the facts as set forth in paragraph 4 above.

25 / / /

26 / / /

27

1 6. Respondent application is subject to denial under
2 Business and Professions Code section 2761(f) in that he was
3 convicted of offenses, as set forth in paragraph 4 above, which
4 are substantially related to the qualifications, functions and
5 duties of a registered nurse, within the meaning of Title 16,
6 California Code of Regulations, section 1444, in that they
7 evidence a present or potential unfitness on the part of
8 respondent to perform the functions of a registered nurse in a
9 manner consistent with the public health, safety, or welfare.

10
11 7. Respondent's application is subject to denial
12 under Business and Professions Code section 480(a)(1) in that
13 respondent was convicted of crimes, as set forth in paragraph 4
14 above, which are substantially related to the qualifications,
15 functions and duties of a registered nurse, within the meaning of
16 Title 16, California Code of Regulations, section 1444, in that
17 they evidence a present or potential unfitness on the part of
18 respondent to perform the functions of a registered nurse in a
19 manner consistent with the public health, safety, or welfare.

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